

OPEN MEETING AGENDA ITEM  
**ORIGINAL**  
BEFORE THE ARIZONA CORPORATION



0000079641

Arizona Corporation Commission

**DOCKETED**

DEC 10 2007

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COMMISSIONERS

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JEFF HATCH-MILLER  
KRISTIN K. MAYES  
GARY PIERCE

2007 DEC 10 P 4:48

ARIZONA CORPORATION COMMISSION  
CLERK OF THE COMMISSION

IN THE MATTER OF THE  
APPLICATION OF SULPHUR  
SPRINGS VALLEY ELECTRIC  
COOPERATIVE, INC., AN ARIZONA  
NONPROFIT CORPORATION, FOR  
AUTHORIZATION TO INCUR DEBT  
TO FINANCE ITS CLEAN  
RENEWABLE ENERGY BONDS FOR  
SCHOOLS PROGRAM AND FOR  
RELATED APPROVALS.

Docket No. E<sup>0</sup>1575A-07-0501

**SULPHUR SPRINGS VALLEY  
ELECTRIC COOPERATIVE, INC'S  
EXCEPTION TO RECOMMENDED  
ORDER**

On August 30, 2007, Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC" or "Cooperative") filed an Application with the Arizona Corporation Commission ("Commission") for approval to borrow up to \$11.48 million from the National Rural Utilities Cooperative Finance Corporation ("CFC") to finance its Clean Renewable Energy Bonds for Schools Program ("CREBS Program").<sup>1</sup> On November 29, 2007, the Administrative Law Judge ("ALJ") filed a Recommended Order ("RO") that approves SSVEC's Application to borrow the funds from the CFC for the purposes set forth in the application, but only up to an interest rate not to exceed 0.5 percent. SSVEC, through counsel undersigned, hereby files this Exception requesting that the interest rate cap be eliminated or, in the alternative, for the cap to be set at a rate not to exceed 1.5 percent.

**Background**

As indicated in the RO and in the November 16, 2007 Staff Report filed by the Commission's Utilities Division ("Staff"), the purpose of the financing is to construct photovoltaic shade structures at all the public schools in SSVEC's service territory, as

<sup>1</sup> The Energy Policy Act of 2005 provided for the issuance of CREBS bonds to afford electric cooperatives and public power systems a new incentive to finance renewable generation projects. Qualified projects within the meaning of Section 54(d)(2)(A) of the Internal Revenue Code may apply for an allocation of CREBS bonds from the Department of the Treasury. The CFC will apply for an allocation of CREBS bonds and loan SSVEC money based upon such allocation. The CFC will charge SSVEC a nominal interest rate (as opposed to a market interest rate) to defray administrative costs and expenses.

1 well as at public colleges and universities, as part of the Cooperative's CREBS Program.  
2 The CREBS Program is a major component of SSVEC's Renewable Energy Standard and  
3 Tariff Plan ("REST Plan" or "RES Tariff") that is currently before the Commission for  
4 approval in Docket No. E-01575A-07-0310.<sup>2</sup> The Application stated that SSVEC  
5 intended to repay this loan entirely from revenues derived from its Commission-approved  
6 RES Tariff and not out of SSVEC's other rates and charges. The Application further  
7 stated that the CFC had previously indicated to SSVEC that it estimated the interest rate  
8 on the loan of approximately 0.5 to 1.0 percent. Both the Staff Report and the RO noted  
9 that the Cooperative estimated the interest rate on the loan to be approximately 0.5 percent  
10 because at the time of the filing of the Application, this was the information that was  
11 relayed to SSVEC by the CFC.

12 Staff performed its financial analysis based upon SSVEC borrowing the full \$11.48  
13 million at a 0.5 percent interest rate amortized over 16 years *without* taking into  
14 consideration the additional revenues that would be derived under the RES Tariff. Based  
15 upon this conservative analysis, SSVEC had a Debt Service Coverage ("DSC") of 1.06.  
16 Staff did, however, note that if "the Commission approved the REST Tariff, SSVEC  
17 would have incremental revenue to service the loan and hence, a higher DSC than  
18 estimated." Staff did not recommend an interest rate cap for this financing.

19 **The Proposed Interest Rate Cap will Preclude this Loan, is Unnecessary and Should**  
20 **be Eliminated**

21 As indicated in the Application, SSVEC anticipated the interest rate that it would  
22 pay the CFC to be between 0.5 and 1.0 percent. Since the filing of the Application and  
23 the issuance of the Staff Report, SSVEC has confirmed with the CFC that the interest rate  
24 that it will charge will be greater than 0.5 percent, but that it is still anticipated not to  
25 exceed 1.0 percent. If the Commission was to adopt the RO with the 0.5 percent interest  
26 rate cap, SSVEC will be precluded from borrowing the money for the CREBS Program.  
27 SSVEC does not believe that this was the ALJ's intent.

28 <sup>2</sup> The Staff Report for this matter was issued on December 4, 2007 recommending that the Commission approve SSVEC's REST Plan and RES Tariff.

1 Although Staff conducted its financial analysis utilizing a 0.5 percent rate, Staff  
2 acknowledged that this was the *approximate* rate that SSVEC had anticipated. Staff also  
3 did not recommend an interest rate cap. As stated in the Application, SSVEC intends to  
4 pay principal and interest on the loan entirely from the revenues derived from its RES  
5 Tariff, which revenues were not factored in for purposes of the Staff financial analysis as  
6 set forth in the RO. However, the RO expressly conditions the approval of this financing  
7 on Commission approval of a compatible RES Tariff, thereby ensuring the additional  
8 revenue stream.

9 Finally, SSVEC intends to draw down the full amount of the loan over the next  
10 twelve months. The interest rate that the CFC will charge is very low rate and not a  
11 market rate.<sup>3</sup> Even if the rate was to rise a full point to 1.5 percent during the next twelve  
12 months, SSVEC's DSC would still be above 1.0 based upon current operating revenue  
13 without even taking into account the additional revenues derived from the RES Tariff.  
14 Accordingly, under these circumstances, the imposition of an interest rate cap is not  
15 necessary or appropriate and the cap should be eliminated.

#### 16 Alternative Proposal

17 Although SSVEC does not believe that an interest rate cap is necessary or  
18 appropriate, if the Commission chooses to impose an interest rate cap on this financing,  
19 SSVEC submits that a 1.5 percent cap is more appropriate. Although the CFC has  
20 recently told SSVEC following the issuance of the RO that it does not anticipate that the  
21 interest rate would exceed 1.0 percent, there is no guarantee that a higher interest rate  
22 could be in effect at the time of a subsequent draw. The CFC suggested to SSVEC that if  
23 the Commission was to impose an interest rate cap, it should correspond with the  
24 maximum amount the CFC is permitted to charge under the federal CREB program or 1.5  
25 percent. This would provide sufficient cushion to ensure that even if the interest rate was  
26 to rise above 1.0 (because the CFC's administrative costs and expenses unexpectedly

27 <sup>3</sup> In Decision No. 70027 (December 4, 2007), the Commission recently approved an SSVEC financing  
28 application that imposed an average effective interest rate not to exceed 7.5 percent that related to current  
CFC market rates.

increased), the Cooperative would still be able to draw down the loan. Accordingly, SSVEC submits that a 1.5 percent cap is more appropriate, given the below market interest rate and the relatively small amount of the financing. Moreover, even at a 1.5 percent interest rate, SSVEC's DSC would still be above 1.0 which would be consistent with the RO's intent in imposing a cap. Finally, as discussed above, the current financial analysis does not take into consideration revenues from the RES Tariff which also must be approved by the Commission as a condition of this approval, thereby ensuring additional revenue to pay principal and interest.

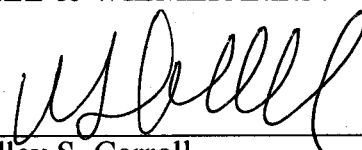
**Conclusion**

On the basis of the foregoing, SSVEC respectfully requests that page 6, line 11 of the RO be amended to delete "at an interest rate not to exceed 0.5 percent,". In the alternative, if the Commission believes that an interest rate cap is necessary, SSVEC respectfully requests that page 6, line 11 be amended to delete "0.5" and insert "1.5".

RESPECTFULLY SUBMITTED this 10th day of December, 2007.

SNELL & WILMER L.L.P.

By

  
Bradley S. Carroll  
One Arizona Center  
400 East Van Buren  
Phoenix, Arizona 85004-2202  
Attorneys for Sulphur Springs Valley Electric  
Cooperative, Inc.

ORIGINAL and 13 copies filed this  
10th day of December, 2007, with:

Docket Control  
ARIZONA CORPORATION COMMISSION  
1200 West Washington  
Phoenix, Arizona 85007

COPY of the foregoing hand-delivered  
this 10th day of December, 2007, to:

1 Jane Rodda, Administrative Law Judge  
Hearing Division  
2 ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
3 Phoenix, Arizona 85007  
4 Pedro Chaves  
Utilities Division  
5 ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
6 Phoenix, Arizona 85007  
7 Janet Wagner, Esq.  
Legal Division  
8 ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
9 Phoenix, Arizona 85007

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